

# PATENT COOPERATION TREATY

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**21. 05. 2004**

From the  
INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY

**PCT BERGGREN**  
JYVÄSKYLÄ

WRITTEN OPINION OF THE  
INTERNATIONAL PRELIMINARY  
EXAMINING AUTHORITY

(PCT Rule 66)

To:

Jyväskylän Patenttitoimisto  
Berggren Oy Ab  
Ohjelmakaari 1  
FIN-40500 JYVÄSKYLÄ  
Finland

Date of mailing  
(day/month/year)

**18-05-2004** 17.2.04 SPJ

Applicant's or agent's file reference

BP 106425

REPLY DUE

within 60 days from  
the above date of mailing

International application No.

PCT/FI 2003/000462

International filing date (day/month/year)

11-06-2003

Priority date (day/month/year)

18-06-2002

International Patent Classification (IPC) or both national classification and IPC

H04Q 7/32

Applicant

Nokia Corporation et al

1. ☐ The written opinion established by the International Searching Authority:  
☐ is ☐ is not  
considered to be a written opinion of the International Preliminary Examining Authority.
2. This first (first, etc.) opinion contains indications relating to the following items:
  - ☒ Box No. I Basis of the opinion
  - ☐ Box No. II Priority
  - ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
  - ☐ Box No. IV Lack of unity of invention
  - ☒ Box No. V Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
  - ☐ Box No. VI Certain documents cited
  - ☐ Box No. VII Certain defects in the international application
  - ☐ Box No. VIII Certain observations on the international application
3. The applicant is hereby invited to reply to this opinion.

**When?** See the time limit indicated above. The applicant may, before the expiration of that time limit, request this Authority to grant an extension, see Rule 66.2(e).

**How?** By submitting a written reply, accompanied, where appropriate, by amendments, according to Rule 66.3. For the form and the language of the amendments, see Rules 66.8 and 66.9.

**Also** For the examiner's obligation to consider amendments and/or arguments, see Rule 66.4bis. For an informal communication with the examiner, see Rule 66.6. For an additional opportunity to submit amendments, see Rule 66.4.

If no reply is filed, the international preliminary examination report will be established on the basis of this opinion.
4. The final date by which the international preliminary report on patentability (Chapter II of the PCT) must be established according to Rule 69.2 is: 18-10-2005

Name and mailing address of the IPEA/SE

Patent- och registreringsverket  
Box 5055  
S-102 42 STOCKHOLM

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Authorized officer

Lisbeth Andersson /LR

Telephone No. 46 8 782 25 00

Form PCT/IPEA/408 (cover sheet) (January 2004)

From the INTERNATIONAL BUREAU

**PCT**NOTICE INFORMING THE APPLICANT OF THE  
COMMUNICATION OF THE INTERNATIONAL  
APPLICATION TO THE DESIGNATED OFFICES

(PCT Rule 47.1(c), first sentence)

To:

JYVÄSKYLÄN PATENTTITOIMISTO BERGGREN OY AB  
Ohjelmakaari 1  
FIN-40500 Jyväskylä  
FINLANDE**RECEIVED**  
12.1.04  
Jyväskylä Patenttitoimisto  
Berggren Oy Ab**IMPORTANT NOTICE**Date of mailing (day/month/year)  
24 December 2003 (24.12.03)Applicant's or agent's file reference  
BP106425International application No.  
PCT/FI03/00462International filing date (day/month/year)  
11 June 2003 (11.06.03)Priority date (day/month/year)  
18 June 2002 (18.06.02)

Applicant

NOKIA CORPORATION et al

1. Notice is hereby given that the International Bureau has communicated, as provided in Article 20, the international application to the following designated Offices on the date indicated above as the date of mailing of this notice:

AU, AZ, BY, CH, CN, CO, DE, DZ, EP, HU, JP, KG, KP, KR, MD, MK, MZ, RU, TM, US

In accordance with Rule 47.1(c), third sentence, those Offices will accept the present notice as conclusive evidence that the communication of the international application has duly taken place on the date of mailing indicated above and no copy of the international application is required to be furnished by the applicant to the designated Office(s).

2. The following designated Offices have waived the requirement for such a communication at this time:

AE, AG, AL, AM, AP, AT, BA, BB, BG, BR, BZ, CA, CR, CU, CZ, DK, DM, EA, EC, EE, ES, FI, GB, GD, GE, GH, GM, HR, ID, IL, IN, IS, KE, KZ, LC, LK, LR, LS, LT, LU, LV, MA, MG, MN, MW, MX, NI, NO, NZ, OA, OM, PH, PL, PT, RO, SC, SD, SE, SG, SK, SL, TJ, TN, TR, TT, TZ, UA, UG, UZ, VC, VN, YU, ZA, ZM, ZW

The communication will be made to those Offices only upon their request. Furthermore, those Offices do not require the applicant to furnish a copy of the international application (Rule 49.1(a-bis)).

3. Enclosed with this notice is a copy of the international application as published by the International Bureau on 24 December 2003 (24.12.03) under No. WO 03/107700

4. **TIME LIMITS** for filing a demand for international preliminary examination and for entry into the national phase

The applicable time limit for entering the national phase will, subject to what is said in the following paragraph, be 30 MONTHS from the priority date, not only in respect of any elected Office if a demand for international preliminary examination is filed before the expiration of 19 months from the priority date, but also in respect of any designated Office, in the absence of filing of such demand, where Article 22(1) as modified with effect from 1 April 2002 applies in respect of that designated Office. For further details, see *PCT Gazette* No. 44/2001 of 1 November 2001, pages 19926, 19932 and 19934, as well as the *PCT Newsletter*, October and November 2001 and February 2002 issues.

In practice, time limits other than the 30-month time limit will continue to apply, for various periods of time, in respect of certain designated or elected Offices. For regular updates on the applicable time limits (20, 21, 30 or 31 months, or other time limit), Office by Office, refer to the *PCT Gazette*, the *PCT Newsletter* and the *PCT Applicant's Guide*, Volume II, National Chapters, all available from WIPO's Internet site, at <http://www.wipo.int/pct/en/index.html>.

For filing a demand for international preliminary examination, see the *PCT Applicant's Guide*, Volume I/A, Chapter IX. Only an applicant who is a national or resident of a PCT Contracting State which is bound by Chapter II has the right to file a demand for international preliminary examination (at present, all PCT Contracting States are bound by Chapter II).

It is the applicant's sole responsibility to monitor all these time limits.

The International Bureau of WIPO  
34, chemin des Colombettes  
1211 Geneva 20, Switzerland

Authorized officer

Judith Zahra

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WRITTEN OPINION OF THE  
INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY

International application No. \_\_\_\_\_  
PCT/FI 2003/000462

Box No. I Basis of the opinion

1. With regard to the language, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.

- ☐ This opinion is based on a translation from the original language into the following language \_\_\_\_\_, which is the language of a translation furnished for the purposes of:
- ☐ international search (under Rules 12.3 and 23.1(b))
  - ☐ publication of the international application (under Rule 12.4)
  - ☐ international preliminary examination (under Rules 55.2 and/or 55.3)

2. With regard to the elements of the international application, this opinion has been established on the basis of *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this opinion as "originally filed.")*:

- ☒ the international application as originally filed/furnished
- ☐ the description:
- pages \_\_\_\_\_ as originally filed/furnished
- pages \_\_\_\_\_ received by this Authority on \_\_\_\_\_
- pages \_\_\_\_\_ received by this Authority on \_\_\_\_\_
- ☐ the claims:
- pages \_\_\_\_\_ as originally filed/furnished
- pages \_\_\_\_\_ as amended (together with any statement) under Article 19
- pages \_\_\_\_\_ received by this Authority on \_\_\_\_\_
- pages \_\_\_\_\_ received by this Authority on \_\_\_\_\_
- ☐ the drawings:
- pages \_\_\_\_\_ as originally filed/furnished
- pages \_\_\_\_\_ received by this Authority on \_\_\_\_\_
- pages \_\_\_\_\_ received by this Authority on \_\_\_\_\_
- ☐ a sequence listing and/or any related table(s) – see Supplemental Box Relating to Sequence Listing.

3. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages \_\_\_\_\_
- ☐ the claims, Nos. \_\_\_\_\_
- ☐ the drawings, sheets/figs \_\_\_\_\_
- ☐ the sequence listing (*specify*): \_\_\_\_\_
- ☐ any table(s) related to the sequence listing (*specify*): \_\_\_\_\_

4. ☐ This opinion has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

- ☐ the description, pages \_\_\_\_\_
- ☐ the claims, Nos. \_\_\_\_\_
- ☐ the drawings, sheets/figs \_\_\_\_\_
- ☐ the sequence listing (*specify*): \_\_\_\_\_
- ☐ any table(s) related to the sequence listing (*specify*): \_\_\_\_\_

WRITTEN OPINION OF THE  
INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY

International application No.  
PCT/FI 2003/000462

Box No. V Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)

Claims

Claims

Inventive step (IS)

Claims

Claims

1-13

Industrial applicability (IA)

Claims

Claims

2. Citations and explanations:

Documents cited in the International Search Report:

D1: US2002087759

D2: US6044265

D3: US5974312

D4: DE19633919

D5: US5590373

D6: EP0583077

The problem to be solved is presumed to be to realize a method and apparatus that is easy, economical and secure in operation for updating firmware in a mobile device [see the description on page 2 lines 33-34]. This is achieved by transmitting the firmware from a network unit to an external memory unit (of the mobile device) via the mobile device. The firmware is then sent back from the external memory unit to the mobile device [see the description on page 3 lines 1-3 and figure 4].

In the claims the word "by" is used [see e.g. claims 1, 4 and 5 "transmitting update data from a network unit by a mobile device..."]. It would be clearer to use the word "via" or "through".

D1, which is regarded as being the closest prior art, describes a method in which the software in a mobile device is updated. The new software is first loaded into a first device, a wireless programmer or programming unit, and is then transmitted to the mobile device [see the abstract and column 2 lines 17-63]. Data input/output devices are used to load the first device with software [see column 8 lines 66-67 and column 12 lines 1-5].

.../...

Supplemental Box

In case the space in any of the preceding boxes is not sufficient.  
Continuation of: BOX V

D2 describes a method for loading software into a peripheral device via a first device, a wireless module [see the abstract]. The software can be transmitted to the first device using a wireless communication link [see page 2 paragraph 0017 and claim 3].

The cited documents D3-D6 represent the general state of the art.

The subject matter of claim 9 does not describe that the firmware has to be loaded in to the first device, an external memory unit, via the mobile device. The subject matter of claim 9 differs from the method described in D2 only in that D2 does not mention firmware. It is, however, generally known to the person skilled in the art that the feature of downloading software is almost an equivalent to the feature of downloading firmware and can be interchanged with that feature, where circumstances make it desirable, without the exercise of inventive skill. The subject matter of claim 9 therefore lacks an inventive step.

The subject matter of claims 10-13 only discloses slight constructional changes which come within the scope of the customary practice followed by persons skilled in the art, especially as the advantages thus achieved can readily be foreseen. Consequently, the subject-matter of claims 10-13 lacks an inventive step.

Claim 1 is unclear regarding how the firmware is loaded into the first device, see comments above. Because this feature is not clearly described, the subject matter of claim 1 is presumed to be an equivalent of the subject matter of claim 9. The subject matter of claim 2 is therefore also not considered to involve an inventive step.

The subject matter of claims 2-8 only discloses slight constructional changes which come within the scope of the customary practice followed by persons skilled in the art, especially as the advantages thus achieved can readily be foreseen. Consequently, the subject-matter of claims 2-8 lacks an inventive step.

.../...